

UNITED STATES DISTRICT COURT  
for the  
DISTRICT OF MASSACHUSETTS

ADMIRAL METALS SERVICENTER CO. INC.,

Plaintiff

v.

FEUZ MANUFACTURING, INC.

And

GARY A. FEUZ, INDIVIDUALLY

Defendants

And

GENERAL ELECTRIC COMPANY

And

EMPIRE RECYCLING OPERATIONS, INC.

Reach and Apply Defendants

C.A. No. 04CV12204-JLT

**AFFIDAVIT OF STEVEN GOLDY IN SUPPORT OF**  
**PLAINTIFF'S MOTION FOR INJUNCTION**

I, Steven Goldy, under oath hereby depose and say as follows:

1. That I am the Vice President for the Plaintiff and am familiar with the practices relating to this matter.
2. Feuz Manufacturing, Inc. ("**Feuz Corporation**") and Admiral Metals Servicenter Company, Inc. ("**Admiral**") have had a long term business relationship dating back to at least August 15, 1995 when Gary Feuz executed a personal guarantee.
3. This business relationship was quite substantial and was not limited to a few isolated transactions.
4. In fact, from September of 1999 through August of 2004, Feuz Corporation purchased \$1,179,344.00 in metal product from Admiral consisting of over 549,000.00 pounds of

metal product. See; Exhibit "1" attached hereto.

5. In effectuating this business relationship, the Feuz Corporation and Gary Feuz have transacted business in Massachusetts by:
  - a. Contacting Admiral in its Woburn Massachusetts office by telephone to request quotes for the purchase of metal product; A sample of a quote provided to Feuz Corporation in response to a telephone request is attached hereto as Exhibit "2".
  - b. By faxing purchase orders to Admiral's office in Woburn Massachusetts. A sample of a faxed purchase order is attached hereto at Exhibit "3";
  - c. By engaging in negotiations with Admiral via numerous e-mails sent to Admiral in Woburn, Massachusetts. Copies of e-mails are attached hereto at Exhibit "4";
  - d. By purchasing product in Woburn, Massachusetts which was subsequently shipped from Woburn, Massachusetts to New York. Copies of invoices and delivery receipts are attached to the Affidavit Of David Schur previously submitted herewith at Exhibit "B";
  - e. By writing to Admiral Metals on numerous occasions and addressing said correspondence to Admiral Metals in Woburn, Massachusetts; A copy of said correspondence is attached hereto at Exhibit "5";
  - f. By Gary Feuz, individually and employees of Feuz Corporation contacting Admiral Metals via telephone in Woburn, Massachusetts to discuss the account;

- g. By Gary Feuz executing a personal guarantee sent to him by Admiral from Woburn Massachusetts and then returning it to Admiral in Woburn, Massachusetts. A copy of the personal guarantee is attached to the Affidavit Of David Schur previously submitted herewith at Exhibit "C";
6. In a desperate attempt to avoid payment of Admiral's debt, Feuz Corporation has asserted in negotiations that it is entitled to offsets to the amount due because it alleges it was sold defective product by Admiral.
7. The alleged defective product arises out of two unrelated transactions totaling a total purchase price of **\$2,900.00** in which Admiral sold metal product to Feuz that was supplied to Admiral from Hussey Copper, LTD.
8. In the first order, Feuz Corporation ordered 7 copper sheets from Admiral on June 19, 2003 (i.e. Feuz Corporation's P.O. #B1806), for overnight delivery, for the purchase price of \$2,030.00 (i.e. Admiral's Invoice Number 1347934). A copy of the delivery receipt for this order, is attached hereto as Exhibit "6".
9. In the second order, Feuz Corporation ordered 3 copper sheets from Admiral on September 18, 2003 (i.e. Feuz Corporation's P.O. #B2337), for overnight delivery, for the purchase price of \$870.00 (i.e. Admiral's Invoice Number 1367175). A copy of the delivery receipt for the second order, is attached hereto as Exhibit "7".
10. The delivery receipt included "**Terms and Conditions**" on the reverse side. The terms and conditions includes express limits to defective product to a replacement of such product. There are no consequential damages, see Terms and Conditions attached as Exhibit "8".

11. Hussey Copper, Ltd., a large manufacturer of metal products, with sophisticated testing equipment who actually tested the metal product, issued a material Certification for the orders. A copy of the Material Certification is attached hereto as Exhibit "9". It says as follows:

**"Hussey Cooper, Ltd. hereby certifies that in all it's manufacturing operations, no free Mercury came in contact with the above material. No electrical devices containing Mercury were damaged to the point of contaminating the said metal anywhere in its's process. Hussey Cooper, Ltd. testing equipment meets Mil-Std-45662. Material marking meets federal standard 185, when specified. We hereby certify the foregoing results correct and that the material complies with the above specifications."**

Admiral merely stated that the copy of the manufacturer's certification is a true and accurate copy.

12. The first order, Invoice number 01347934, was paid in full by Feuz Corporation on June 23, 2003. See; Exhibit "10" attached hereto.
13. The second order, Invoice 01367175, was paid in full by Feuz Corporation on September 19, 2003. See; Exhibit "10" attached hereto.
14. Other suppliers of Metal Products similar to Admirals shipment made shipments to Feuz.
15. I have been advised directly by Wesley Feuz that the Defendant, Feuz Corporation, is in the process of being sold.
16. In fact, Wesley Feuz, alludes to the sale in certain e-mails to me dated September 23, 2004 and September 24, 2004 which are attached hereto as Exhibit "5". In the September 23, 2004 e-mail Wesley Feuz states that "We have been working feverishly in order to made some business transition work. We had fallout on the deals we had been working on and we are making another strong effort to continuc. This activity has absorbed all of our resources and our new business plan will not succeed if our current cash level is not

completed next week we will have more information."

17. I have been advised by contacts in the metal industry that a sale of Feuz Manufacturing, Inc. is imminent.

Subscribed and sworn under the pains of perjury this \_\_\_\_ day of October, 2004.



Steven Goldy, Vice President  
Admiral Metals Servicenter Co., Inc.

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